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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,472	05/23/2001	John C. Cofano	GT10004US	7470
29150	7590	01/10/2006	EXAMINER	
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE, STE 500 SPOKANE, WA 99201			BROOKS, MATTHEW L	
			ART UNIT	PAPER NUMBER
			3629	
DATE MAILED: 01/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/862,472	Applicant(s) COFANO ET AL.	
	Examiner Matthew L. Brooks	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 28-66 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because Figs 6, 7A (ie; 701), 7B, 7C, 7D, 8, 9A, 9B, and 10 are hardly readable by Examiner. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: [0041], pg 10; "...as system...".

Appropriate correction is required.

Claim Objections

3. **Claims 1-27** are objected to because of the following informalities:

Claim 1 and 19 → step f should state "...providing *personal* services..." / also indicate wherein claim 19 "personal services" are provided.

Claim 8 → "...wherein of the user type..."

Claim 13 → "...provide respective..."; should it be providing?

Appropriate correction is required.

Claim Rejections - 35 USC § 112 1st

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 10-18 and 22-27** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

6. With respect to **Claim 10 and 22**, Applicant has not taught how to "...calculate outcome data..." And for Examiner to determine this amongst the endless possibilities would require undue experimentation.

7. With respect to **Claim 11 and 12 and 23**, Applicant has not taught how to determine a "...service usage by user..." And for Examiner to determine this amongst the endless possibilities would require undue experimentation.

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8. With respect to **Claim 13 and 14 and 15 and 24**, Applicant has not taught how to calculate "...performance metrics..." And for Examiner to determine this amongst the endless possibilities would require undue experimentation. For purposes of Examination this is merely rating the doc based upon user feedback and rewarding/penalizing appropriately. (old and known with in the art see 103 below).

9. With respect to **Claim 16, 17, and 18 and 25 and 26 and 27** Applicant has not taught how to determine a "...response based on information related to medical history/work schedule/estimated condition..." For instance IF (X) then (Y). And for Examiner to determine this amongst the endless possibilities would require undue experimentation. However for purposes of examination all the above is given their obvious interpretations. For instance if user wants to see doctor at a certain time simply schedule an appointment that best suits patient and doctors work schedule (see 103 below).

Claim Rejections - 35 USC § 112 2nd

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. **Claims 1-27** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. With respect to **Claim 1 and 19**, steps (a) and (d); Applicant states in (a) "receiving a service request..."; then in step (d) receiving a selected service request.

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Thus Applicant has received the same service request two times? Or why not determine user type then receive request?

Furthermore in step (e), determine a service response based on information related to the user. How is this possible, what information? Rather would not the response be based upon/determined by the request?

The steps and the series thereof are indefinite. For purposes of examination this claim is interpreted merely as to what its broadest interpretation allows.

“A user gets online looks for what user needs, then clicks on link. Then asked for password/user id and then providing links accordingly. A user then selects an option/link and depending on what user chooses respond accordingly with services or otherwise, and record all transactions in a database.”

Applicant should realized that this is the broadest interpretation of the claim and if this is what Applicant has intended this is old and well known with in the art of online commerce for medical services and more.

13. With respect to **Claim 11 and 12**, “...calculating service usage by user...”, which user? What is service usage and how is it figured out? (see 112 1st above). That being said Examiner interprets it as what is old and well known within the art of monitoring how long a user of service uses the service and then billing accordingly.

14. With respect to **Claim 16, 17, and 18** are all indefinite based upon Applicant’s definition of user. For instance claim 16; “...wherein the service response is determined based on information related to the medical history of the user.” There are multiple problems with this claim. First see below for LAB rejection, Second “...based on

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information..." what information (this, as well as 17 and 18 gets a 112 1st because there is no teaching in the specification and/or working examples). Thirdly related to the medical history of the user!!! IF user is a service provider, would the invention still determine a response based upon users medical history? Throughout the claims it would help make clear to Examiner if Applicant would stay consistent and change user to appropriate term. Ie; patient, Doctor, etc.; because user as used throughout the claims is confusing.

15. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: all "calculating" and "determination or determining" steps. No calculations are shown in specification and/or flow charts if this then that and/or hierarchal trees for determining steps.

16. The terms "administrator"/"administration" in **claims 2-18 and 20-27**, and wherever else found is a relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Is this the Administrator of the site or the Administrator of the hospital or the Administrator of the company of employee? Please point to wherein the specification support for this is found.

17. The terms "communication" in **claims 3 and where else found** is a relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one

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of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Is this merely an email address? Please point to wherein the specification support for this is found.

18. The terms "service partner" in claims **3, 8** and where found is a relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Is this the service providers partner, who also provides service? Please point to wherein the specification support for this is found.

19. The terms "outcome data/information" in claims **9, 10, 21, 22** and where else found is a relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. What is this the outcome of and how is it determined (see 112 1st above)? Please point to wherein the specification support for this is found.

20.

21. **Claim 16** recites the limitation "the medical history of the user. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

22. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

23. **Claims 1-3 and 9-12 and 16-18 and 19-23 and 25-27** are rejected under 35 U.S.C. 102(b) as being clearly taught by Patent No.: 5,911,132 (Sloane).

24. With respect to **Claim 1 and 19 and 20**: Sloane discloses

A computer implemented method of providing personal services over a computer network, the method comprising the steps of :

receiving a service request from a user (C3, 52-53);

determining a user type (C3, 55-57);

providing a menu of service request options corresponding to the determined user type (Column 3, 55-68 and C4, 5-12);

receiving a selected service request option from the user (Column 3, 55-68 and C4, 5-12);

determining a service response based on information related to the user (Column 3, 55-68 and C4, 5-12);

providing services in accordance with the selected service request option and the determined service response (Column 4); and

recording interactions while providing the selected service request option (Column 4, 1-5).

25. With respect to **Claim 2**: Sloane discloses

wherein the personal services comprises healthcare related services (See anywhere in patent).

26. With respect to **Claim 3**: Sloane discloses

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wherein the user type comprises one of a member/employee, a service provider, an administrator, a research service, and a service partner (Column 3 and Column 4, 40-53).

27. With respect to **Claim 9 and 21**: Sloane discloses

wherein the step of recording interactions includes storing information regarding type of service provided, user requesting service, service provider information and recommendations, frequency of service provided by user and/or service provider, outcome information, feedback from user, and performance metrics (Column 4 and C7, 15-67).

28. With respect to **Claim 10 and 22**: Sloane discloses

calculating outcome data (C7, 15-67); and

providing non-confidential outcome data to a research service (C7, 15-67).

29. With respect to **Claim 11 and 23**: Sloane discloses

calculating service usage by user, service type, and outcomes (C4, 52-60); and

providing calculated service usage to an administrator (C4, 52-60).

30. With respect to **Claim 12**: Sloane discloses

determining, by the administrator, a list of services provided based on the calculated service usage information (Column 4).

31. With respect to **Claim 16 and 25**: Sloane discloses

wherein the service response is determined based on information related to the medical history of the user (C3, 50-68 and C6, 50-68).

32. With respect to **Claim 17 and 26**: Sloane discloses

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wherein the service response is determined based on information related to a work schedule of the user (Column 6, 20-25).

33. With respect to **Claim 18 and 27**: Sloane discloses

wherein the service response is determined based on information related to an estimated condition of the user (Column 6).

Claim Rejections - 35 USC § 103

34. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

35. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

36. **Claims 4-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane.

Sloane teaches all of the limitations as laid out above. Most importantly for purposes of Examiners 36th paragraph (this one), Sloane teaches an “e-doc” or providing medical services on line. Sloane also teaches that the parties involve and that

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have access are extensive. Sloane teaches a new/old patient may have access to the site and if new must create a user profile and after doing so may perform transactions. Sloane also teaches a user of the system may be a service provider, also Sloane's system must have an administrator. Further still Sloane teaches a user type being research services and thus also teaches the likelihood of services partner having access.

Sloane does not teach all of the links/options that may be included and/or presented to a user, depending on user type.

However, the links/options that Applicant presents to a user type, are all obvious to one of ordinary skill in the art to include when said user type logs into said system. For instance in claim 5, including a knowledge base so a doctor may query for answers to collected symptoms or presenting links/options to a "research service" such as available databases and query takes no great stretch of the imagination, further to have done so was well known with in the art, and the titles applied to the links is arbitrary design at best. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include as many relevant/pertinent options to a user upon determining a user type in order to have a fully comprehensive web site that provides an array of health services.

37. Claims 13-15 and 24 are rejected under 35 U.S.C. 103 as being unpatentable over Sloane. Sloane teaches all of the claimed process steps with the exception of receiveing a feedback from a user, calculating a performance, and rewarding/penalizing in accordance thereof. Customer service is a key factor in the success of any business,

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whether it be brick and mortar or online. The most common vehicle for businesses to measure customer service is by asking the customers directly what they believed was good or bad about their experience with the business. Businesses have resorted to many different techniques of obtaining customer comments including comment cards, follow-up telephone calls, as well as mailing customer surveys to customers. This practice is well known in the business community and would follow in the Internet world as well where competition is sometimes worldwide and customers have a greater influence on the success of a business. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have added the well-known steps of asking the customer/user for feedback and then later rewarding a customer/user based upon said feedback to the process of online health care services for the purpose of gaining information about their service performed from the customer and rewarding/penalizing a doctor based upon services rendered.

Conclusion

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A. www.e-med.com retrieved from the wayback machine and can be pulled back with a date up to 1 year before filing date and before Applicant's provisional.
- B. Pub. No.: US 2002/0065682 A1 (Goldneberg).
- C. Patent No.: 5,517,405 (McAndrew) → Teaches automatic rule engine diagnosis of patient on line and recording thereof in database; also see C2 for knowledge base, news, and recommendations

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D. www.bestdoctors.com from wayback machine which can be pulled as far back as 1/25/1999.

E. Patent Nos.: 5,301,105 and 6,283,761 and 5,553,609

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-8112. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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